



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/10/01
AGENDA ITEM 3
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Use Permit Application No. 01-160-11 to Relocate its Radio Transmitter Facilities from 3636 Enterprise Avenue to the Closed Landfill Site Near the Western Terminus of West Winton Avenue on a Closed Landfill Site

RECOMMENDATION:

The Planning Commission (5:1) and staff recommend that the City Council

- Adopt the mitigated negative declaration for the relocation of the KFX radio towers and the mitigation monitoring program, and
- Approve the use permit for the construction of the KFX radio towers.

DISCUSSION:

Golden Gate Broadcasting Company, the owner of the towers, is proposing to raze the existing towers on Enterprise Avenue and replace them with new towers at a City-owned, closed landfill parcel at the end of West Winton Avenue (see attached aerial). This approximately 14-acre parcel north of the City oxidation ponds is classified as partially "Industrial" and partially "Open Space" by the General Plan Map. This Open Space designation does not necessarily preclude the location of uses such as towers. For example, P.G.&E. transmission lines and towers traverse many areas of the City designated as Open Space, including the Shoreline and Walpert Ridge. The Zoning Map indicates that the eastern portion of the parcel is within the Industrial District and the western portion is in the Flood Plain District. Towers have traditionally been allowed in the Industrial District. The Flood Plain district allows broadcast studios as a permitted use, but does not specifically mention radio towers. To accomplish relocation to this site, a determination must be made that radio towers are essentially an element of the broadcasting function and thus similar in character and use to a broadcast studio.

Mitigated Negative Declaration for Construction of KFX Radio Towers

An Environmental Checklist Form and a draft Mitigated Negative Declaration were circulated for public review. During the review period staff received telephone calls and letters from individuals, businesses and agencies who expressed concerns about potential negative impacts from the radio towers which they indicated were not adequately addressed in the environmental

documents. These issues relate to potential health and safety impacts on workers and visitors to the shoreline area near the proposed KFAQ site, radio frequency interference on communication apparatus in the area, and impacts on protected wildlife. In reply to these issues, staff refined the Mitigated Negative Declaration and Environmental Checklist to address these issues, and they are discussed below.

With respect to the concern that there could be health and safety impacts on workers and visitors to the shoreline area near the location of the proposed radio towers, the new towers will have a combined power output of approximately 50 kilowatts. The base of the towers will be fenced to eliminate public access to the towers. Measurements made by the Federal Communications Commission (FCC), the Environmental Protection Agency, and others have demonstrated that radio frequency energy levels in inhabited areas near broadcasting towers are generally well below maximum permissible exposure defined for general public exposure. According to the Federal Communications Commission, reports of events when the maximum permissible exposure level is exceeded are found to be rare. Public access to the KFAQ broadcast antennae will be restricted to ensure individuals are not exposed to radio frequency energy that exceed the maximum permissible exposure levels, as required by FCC. The buffer zone distance required to accomplish this goal will be a minimum of 13 feet. Therefore, fencing and posted warning signs will be installed around each tower to prevent public access.

At lower levels of exposure to radio frequency energy, the evidence for production of harmful health effects is ambiguous and unproven. Recent research studies in laboratories throughout North America and Europe have examined the possibility of a link between radio frequency energy exposure to laboratory animals and various "non-thermal" effects such as changes in the immune system, neurological effects, behavioral effects, and effects on DNA. Some links have been reported from these live animal and animal tissue studies conducted under specific conditions; however, there is currently not conclusive evidence about the relevance of these studies to human health, according to the FCC.

Laboratory studies have also examined the possibility of a link between radio frequency exposure and cancer. Some study results have suggested a link between exposure and tumor formation in animals under specific conditions; however, these results have not been replicated. Other studies have failed to find any causal link, per the FCC. In addition, some epidemiological studies (studies on large human population groups) have identified a weak association between exposure and cancer; however, a large number of equivalent studies have shown no association. Research is ongoing; however, at the present time there is no conclusive evidence of a link between radio frequency exposure and cancer. Regarding possible impacts on implanted pacemakers for park users, the U.S. Food and Drug Administration requires that pacemaker manufacturers test their devices for susceptibility to interference over a wide range of frequencies prior to market approval to demonstrate their products are reliable during exposure to radio frequency energy. Electromagnetic shielding has been incorporated into the design of modern pacemakers to prevent radio frequency signals from interfering with the pacemaker electronics.

With regard to radio frequency interference, as indicated in the Mitigated Negative Declaration, matters of radio frequency interference are the responsibility of the FCC. The U.S. "Code of Federal Regulations" outlines the responsibility of the KFAQ licensee concerning matters of interference as follows: *"The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1mv/m (blanketing) contour."* This "blanketing" signal represents the field strength within which interference, if there is interference, is likely to occur. It should be noted that according to Evans Associates, Consulting Communications Engineers, Thiensville, Wisconsin, well constructed professional systems that use interference-resistant wiring are much less likely to receive interference than consumer-grade equipment at any distance from an AM transmitter. The AM station itself employs computer control equipment that is installed on-site immediately adjacent to the AM array. In any case, FCC rules and associated contractual agreements outline the responsibilities of KFAQ with respect to interference matters. It is the opinion of the consulting engineering firm that there is minimal possibility that any identified instances of electro-magnetic interference will not respond to well known mitigation techniques.

With regard to raptors using the radio towers as perching points that affords them the opportunity to prey on protected species, such as the salt marsh harvest mouse, the Mitigated Negative Declaration concludes that the impacts resulting from bird strikes will not be significant. The new KFAQ broadcast tower latticework could be used by raptorial birds for perching and sighting prey, which might include endangered and threatened species such as the salt marsh harvest mouse, least tern, or clapper rail. This is unlikely to become a significant problem with the new KFAQ towers, however, because of the distance between the towers and good salt marsh (harvest mouse, clapper rail) or mud flat (least tern) habitat next to the radio tower locations. The nearest salt marshes to the towers are not located next to the towers, but are some distance away. The potential effect on endangered or threatened species would thus not be significant. Towers with diagonal latticework, furthermore, could discourage raptor perching, particularly when there are other horizontal perches nearby.

Peregrine falcons are known to inhabit the San Francisco Bay Area. These are predatory raptors that hunt by flying to a relatively high altitude to locate prey, then swooping down on them. Formerly an endangered species, the peregrine falcon had recovered sufficiently that the U. S. Fish and Wildlife Service removed it from the Endangered Species List several years ago. Broadcast towers with guy wires might cause falcon mortality due to collisions, but these birds have excellent eyesight and are well known inhabitants of urban downtowns, where they prey on pigeons while navigating similar kinds of obstacles. Unguyed towers for KFAQ should not pose a significant obstacle to the peregrine falcon. It is unlikely that peregrine falcons would use the broadcast towers for perching and spying prey among special status species living near the towers because these birds habitually hunt from relatively high altitude flight patterns, rather than from fixed perches.

Regarding the potential for bird strikes, the KFAQ towers in their current location pose a greater risk in that they are slimmer than the proposed freestanding monopoles and are supported by thin guy wires. Birds will more readily see the new towers. Mortality events tend to occur when it is stormy or foggy or during the nights when there is a low cloud ceiling. Fortunately for Hayward, there are few foggy days. Also, mortality events largely occur in towers greater than 400 to 500 feet in height. There has been one individual who has been responsible for maintaining the current KFAQ site on Enterprise Avenue. He indicates that in the twenty years that he has walked the site, he has never come upon a dead bird. It is known that lights can distract birds, and the towers will require lights for aviation safety. However, a condition of approval requires the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA. It is also known that white lights are less distracting than red lights, so a condition of approval requires white lights unless otherwise directed by the FAA. Also, a condition requires that any security lighting at or near the accessory buildings at the base of the towers be cast downward. Finally, should the towers become obsolete and no longer used, they will be required to be removed.

A request was made for a better project description, and this information has been provided in the Mitigated Negative Declaration, including height, design, and proposed colors. A map has been added to more precisely identify the locations of the tower.

During recent surveys, there were no burrowing owls on the site. Moreover, the site is regularly disked and seeded in order to, in part, discourage burrowing animals from settling there. This is essential in order to maintain the integrity of the clay cap over the closed landfill. To ensure that there are no burrowing owls on the property, an additional survey will be required within thirty days of construction of the tower.

During the Planning Commission public hearing, environmental issues were raised by individuals as well as representatives of East Bay Regional Park District, a nearby business park, and KTCT radio (formerly KOFY). Individuals expressed concern that the radio towers could serve as perching points for raptors that might prey upon endangered wildlife and that the mitigated negative declaration did not adequately address all the environmental issues (please see comments above). The East Bay Regional Parks District representative pointed out that the site of the proposed radio towers is at the entry to the Park's bay trail system, and that there could be a negative economic impact on the Park if the towers are at the entry. He also expressed concern about impacts of the Park's electronic equipment and wireless communication devices used by Park staff and rescue operations.

A representative of KTCT indicated that a significant amount of engineering changes to the KTCT facilities would be necessary if the KFAQ towers are located where proposed. He asked that the environmental documents reflect that all costs associated with altering the KTCT facilities be borne by the applicant. A representative of a neighboring industrial development also expressed concern about radio interference. A spokesperson for Goldengate Broadcasting acknowledged that they are responsible for ensuring that there is no radio interference and that they are in the process of working out arrangements with KTCT to resolve issues relating to

interference. He added that the FCC has sole jurisdiction over matters of interference and that the FCC would not approve the towers unless interference issues are resolved.

When the Planning Commission moved to recommend approval of the Mitigated Negative Declaration and the Use Permit, they did not recommend further refinement of the environmental documents; rather, their motion included a request to staff to work with representatives from KTCT and KFAX to modify and clarify the condition of approval (No. 13) relative interference and responsibilities for mitigating interference. Since that meeting, attorneys from both radio stations have been meeting regarding this issue. Conditions 3 and 13 are submitted in response to concerns by the Planning Commission and members of the community relative to radio transmissions.

Use Permit for Radio Towers

The four KFAX radio towers are currently located on Enterprise Avenue, across from the City's Waste Water Treatment Plant. They are thin poles supported by guy wires. When relocated, they will be new self-supporting monopoles (no guy wires). Small accessory (equipment) structures will be located at the base of each tower, and the area surrounding the tower and accessory structures will be fenced to prevent vandalism to the equipment.

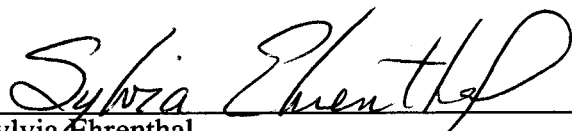
The towers are proposed to be situated upon the elevated closed landfill just to the south of the parking area and the entrance to the shoreline trail, which lie beyond the terminus of West Winton Avenue. The rise is currently accessible to the public and overlooks the City's oxidation ponds. The area is not a part of the trail system; however, it serves as a viewing point of the surrounding area. As a closed landfill site, it is covered with a clay cap to prevent seepage of water into the landfill. The cap is overlain with earth, which is disked and seeded each year. The purpose of diskings the area is to prevent plants and animals from compromising the integrity of the clay cap, and the newly seeded earth is meant to prevent erosion and provide an attractive setting. Because the land is disked and seeded yearly, the site is not suited to plant and animal species in protected categories. Except for the fenced areas around the base of each tower, the public can still enjoy access to the area.

As mentioned above, the land is both in the Industrial District and the Flood Plain District. The purpose of the Industrial District is to provide for industrial uses in areas that will have a minimum of detriment to surrounding properties. The purpose of the Flood Plain District is to enforce regulations that serve to protect persons and properties from the hazards of development in areas subject to tidal or flood water inundation. The Planning Commission found that the KFAQ radio towers would not be inconsistent with these purposes.


Prepared by:


Dyana Anderly, AICP
Planning Manager

Recommended by:


Sylvia Ehrenthal
Director of Community and Economic Development

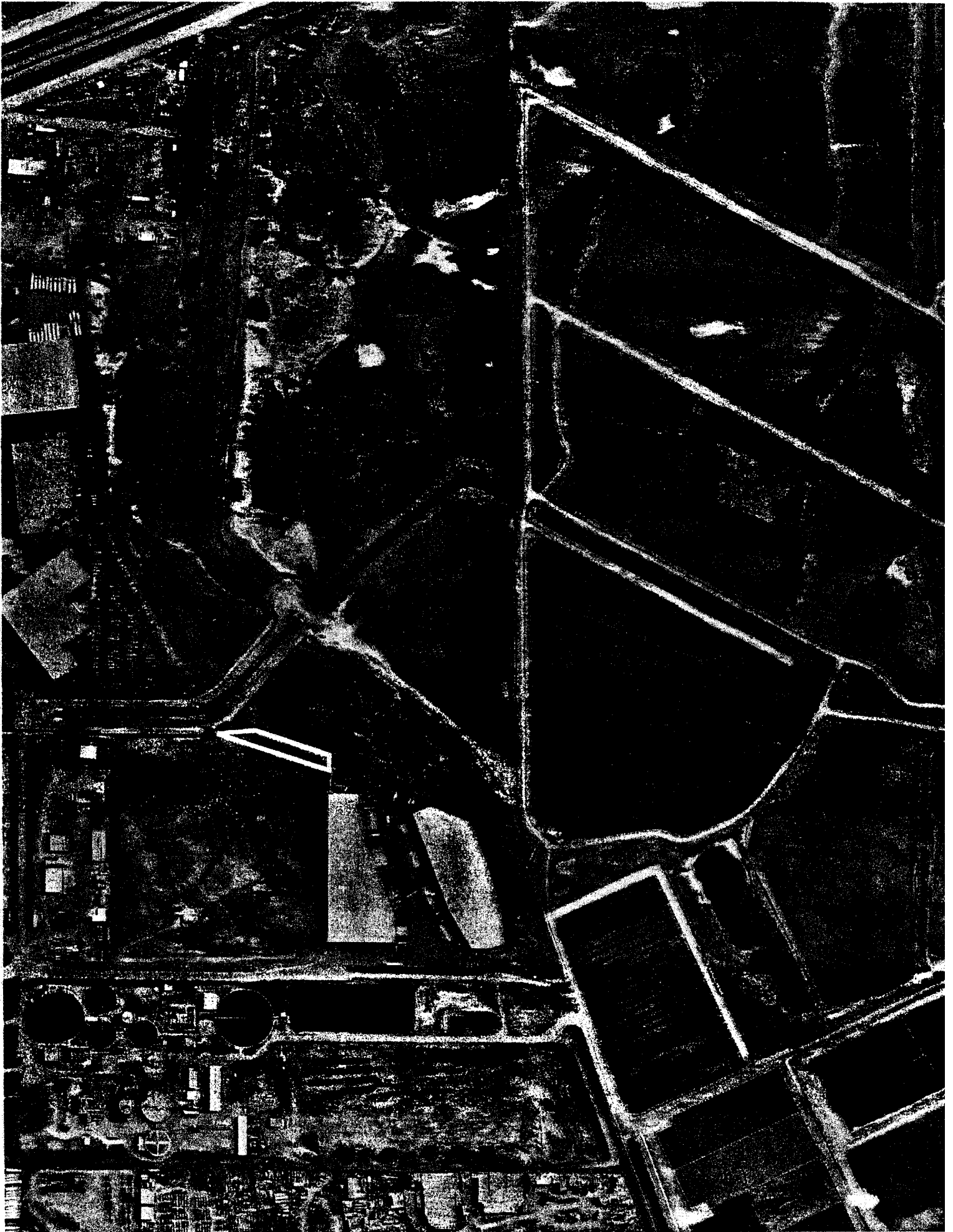
Approved by:


Jesus Armas, City Manager

Attachments:

- A. Aerial of Proposed Tower Relocation Site
- B. Findings of Conformity
- C. Environmental Checklist
- D. Mitigated Negative Declaration
- E. Conditions of Approval of the KFAQ Towers
- F. Mitigation Monitoring Program
- G. Letter from East Bay Regional Park
Draft Resolution(s)

7/10/01



**FINDINGS FOR APPROVAL
USE PERMIT APPLICATION No. 01-160-11
Golden Gate Broadcasting Company (Applicant)**

Based on the staff report and the public hearing record:

1. Approval of Use Permit Application No. 01-160-11, as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the Mitigated Negative Declaration prepared for this project is in conformance with the provisions of the California Environmental Quality Act.
2. The relocation of the four KFAX radio towers is desirable for the public convenience and welfare because it provides a convenient and necessary service to the City's residents.
3. The relocation of the radio towers will not impair the character and integrity of the Industrial District because the subject towers are already in existence in the District, and similar structures, including PG&E towers, are located in the District. There will be no change to the District by their relocation, they are in character with the surrounding uses and will not have a detriment to surrounding properties.
4. The relocation of the radio towers will not impair the character and integrity of the Flood Plain District because the siting of the towers will not result in exposing persons or properties to tidal or flood water inundation and similar structures, such as PG&E transmission towers, are found in the district..
5. The relocation of the radio towers will not be detrimental to the public health, safety, or general welfare in that mitigation measures will be imposed to ensure that the project will not have a significant impact on the environment.
6. The relocation of the radio towers is in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with the Industrial and Flood Plain Districts and the neighboring open space and industrial activities.

CONDITIONS OF APPROVAL
Use Permit Application 01-160-11
KFAX Radio Towers

1. This permit shall become void on July 10, 2002, unless prior to that time a building permit is submitted and accepted as complete by the Building Official. A request for an extension must be submitted at least 15 days prior to the above date, which may be approved at the discretion of the Planning Director.
2. Towers and associated equipment shall be located so as to avoid any identified wetlands.
3. Prior to issuance of a building permit, evidence shall be provided that impacts to KTCT from the radio transmission facilities of KFAF will be fully mitigated by the owner(s) of KFAF; further, proof shall be provided that permits from all requisite permitting agencies have been obtained, including but not limited to the following agencies: the Federal Communications Commission, the Federal Aviation Administration, and the San Francisco Bay Regional Water Quality Control Board.
4. Towers shall be guyless, lattice-type, monopoles finished in a nonreflective anodized metal color, unless directed otherwise by the Federal Aviation Administration (FAA). There shall be as few blinking lights as possible installed in accordance with Federal Aviation Administration requirements. Lights shall be white unless directed otherwise by the FAA.
5. Horizontal elements which may extend out from the radio transmission towers, such as to support light fixtures or the fixtures themselves, shall be designed to deter raptors from perching on them.
6. To reduce structural damage due to continuing consolidation of fill, pile foundations will be required to be designed to include the negative friction (downdrag) imposed by consolidation of the upper 20 feet of material and tower pads and pilings will be designed in accordance with Uniform Building Code, Seismic Zone 4 requirements.
7. Prior to construction (within 30 days) a survey shall be carried out by a wildlife biologist for the presence of burrowing owl, northern harrier, and short-eared owl. A 250-foot buffer shall be established around any nest of these species prior to initiating installation of the radio transmitter towers. Alternatively, construction shall wait until the young have fledged before installing the towers.
8. A drainage plan shall be approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures.

9. The accessory building shall be constructed of decorative noncombustible materials. The color and design of the building shall be approved by the Planning Director prior to issuance of a building permit.
10. Fencing shall consist of decorative metal fencing (such as wrought iron or tubular metal) which shall be installed and maintained in a damage free condition around each radio tower. The height and design of the fence shall be approved by the Planning Director prior to issuance of a building permit.
11. Prior to the final City inspection of the towers, the access road, turn-around area, and pedestrian path shall be constructed to provide access to and about the site. Design, location and materials regarding the above improvements shall be approved by the Planning Director prior to issuance of a building permit. All construction shall be accomplished to the satisfaction of the City Engineer.
12. Access to the site during construction and for maintenance purposes is required to be surfaced with a material that prevents, to the extent possible, vehicles from tracking mud and dust onto public streets. In addition, wheels may be required to be washed before entering the public street.
13. Unless pre-empted by the Federal Communications Commission, in the event the operation of the KFX radio transmission facilities adversely affects the communication or electronic system of any other entity, public or private, including but not limited to radio, telephones, telecommunication systems, and computer systems, the owners of the KFX radio transmission facilities shall immediately, at the expense of KFX, correct the problem(s).
14. The East Bay Regional Park District (EBRPD) has a significant investment in the entrance to the Hayward Regional Shoreline, which entrance is accessed by both District employees and the general public. In recognition of the foregoing, prior to the issuance of a building permit, the applicant shall meet with City and EBRPD representatives to address the health and safety issues of park staff and visitors as described in the District's letter dated June 14, 2001.
15. If any refuse is brought to the surface during drilling, it shall be transported to an open sanitary landfill.
16. Owner of the KFX radio transmitter facilities, or their successors, shall be responsible for the maintenance of the site, including assurance that the site is disked and seeded on a yearly basis, removing any garbage or other debris dumped on the site, and maintaining in good condition all equipment related to the radio transmission facilities.

17. In the event the radio transmitter facilities become obsolete or otherwise not used for a period not to exceed one year, the facilities shall be removed from the site and the integrity of the clay and fill cap retained. Should the owner of these facilities fail to remove the equipment in accordance with this condition, the City shall remove the equipment, with all resulting costs to be borne by the owner of the facilities.
18. Lights about the base of the towers, if needed for safety, security, or operations, shall be shielded from public view, and non-glare fixtures and the use of switches, sensors, and timers will be used to minimize the time that lights not needed for safety and security are on. A lighting plan shall be approved prior to issuance of a building permit.
19. The owner of the radio transmission facilities shall comply with all conditions and assignments in the terms of agreement between the City of Hayward, as land owner, and Golden Gate Broadcasting, Inc.
20. Violation(s) of these conditions may result in revocation of the use permit for the radio transmitter facility within a public hearing before the proper review body.

MITIGATION MONITORING PLAN FOR THE RELOCATION OF RADIO
TRANSMITTER FACILITIES AS
REQUEST BY CALPINE/BECHTEL JOINT DEVELOPMENT FOR THE CITY OF
HAYWARD

	IMPACT	MITIGATION REQUIRED	MONITORING RESPONSIBILITY	TIMING
1a, 1b, & 1c	The project will have a visual impact.	The towers will be replacing similar towers that are similarly visible from the shoreline and will be designed as to appear to recede into the backdrop of the sky and the East Bay Hills. Transfer equipment enclosure and electronic enclosures will be finished in earth tone colors.	City of Hayward, Planning Division	Prior to issuance of the Building Permit tower design and colors will be approved
1d	The project will introduce white strobe aircraft warning lights and ground level security lighting.	The aircraft warning lights will be installed in a similar manner to those on the nearby KTCT transmitter tower. Security lighting will be non-glare fixtures on sensors and timers.	City of Hayward, Public Works	Prior to the issuance of a Building Permit, locations of all lighting shall be approved by the Planning Director and the Airport Manager
6a (ii) & (iii)	The project has the potential to be damaged by strong seismic ground shaking and ground failure including liquefaction.	Pile foundations will be designed to include the negative friction (down drag) imposed by consolidation of the upper 20 feet of ground fill material and tower pads. Pilings will be designed in accordance with CBC, Seismic Zone 4 requirements.	City of Hayward, Building Division	Prior to the submittal of a Building Permit Application
8d	Alteration to the on-site or area drainage pattern which would result in substantial erosion; on - or off-site.	Submit a drainage plan for the review and approval by the City Engineer and San Francisco Bay Regional Water Quality Control Board.	City of Hayward, City Engineer & San Francisco Bay Regional Water Quality Control Board	Prior to the issuance of a Building Permit for the radio transmitter facilities and accessory structures
15c	The height of the Transmitter facility could result in a change to air traffic patterns.	An Airspace Analysis is required to be prepared and completed to the satisfaction of the Federal Aviation Administration (FAA).	Federal Aviation Administration	Prior to the issuance of a Building Permit



June 14, 2001

Ms Dyana Anderly
City of Hayward
777 "B" Street
Hayward, CA 94541-5007

Subject: Comments on KFOX Tower Relocation/Russell City Energy Center
Hayward Regional Shoreline

Dear Ms Anderly:

Thank you for providing the East Bay Regional Park District ("District") with a copy of the Mitigated Negative Declaration (MND) for the KFOX Tower Relocation Project, which is part of the proposed Russell City Energy Center Project being proposed by Calpine/Bechtel. The East Bay Regional Park District is very concerned with the environmental impacts of the proposed project. The District operates the 1,682 acre Hayward Regional Shoreline which will be impacted by the proposed relocation of the KFOX towers and the Russell City Energy Center Project. The three (3) most crucial environmental concerns for the District are:

1. Health and safety impacts on park staff and park visitors;
2. Impacts on Peregrine falcon and burrowing owl, both protected species; and
3. Impacts from powerful radio frequency interference on park communications and other electronic devices.

The proposed project may have a significant adverse impact on the environment. That impact needs to be avoided or substantially mitigated. If not, an Environmental Impact Report needs to be prepared. The following comments provide additional clarification regarding the concerns with the MND:

Project Description Incomplete and Improperly Segmented from Russell City Energy Center

The California Environmental Quality (CEQA) requires that the project description describe the whole action being contemplated. CEQA guidelines require that a project description be "accurate, complete and final". In this case, the KFOX towers are being relocated so that the Russell City Energy Center can be built on the site. The MND does not city mention this crucial information in the project description. The only notation of any connection between these related actions, is a statement in the Initial Study under item "IX (c)" where it mentions the Russell City Energy Center, but it fails to mention the relationship between the two actions.

BOARD OF DIRECTORS

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Ward 1

Pat O'Brien
General Manager



The MND should describe the total project, even if portions of the project are to be considered by another CEQA lead agency. CEQA requires that a project must describe "reasonably foreseeable future phases" of a project. In this case, the Energy Center is immediately foreseeable and is a part of the same project. CEQA Guidelines Section 15165 states:

"Where an individual project is a necessary precedent for action on a larger project, or commits the lead agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project."

If the California Energy Commission prepares (CEC) its own CEQA document or uses an equivalent CEQA process, it should also describe the City's project as a required/related action and list them as a responsible agency under CEQA. It appears that the CEC process should precede the tower relocation project, not the other way around.

The MND does not provide adequate project information. It needs to provide locational information, plans and drawings, and description of the magnitude of the project, such as the power of the facility (5,000 watts? 50,000 watts? 5,000,000 watts?).

Impacts to Hayward Regional Shoreline Inadequately Identified or Mitigated in MND

The District operates the Hayward Regional Shoreline which will be impacted by the proposed relocation of the KFAX towers at the entrance to the park, which includes a recent \$500,000 acquisition for a service yard, and the Russell City Energy Center Project. The MND fails to address numerous impacts, including several potentially significant, unmitigated impacts, to this important regional facility. These are described below:

1. Item #9 Environmental Checklist Form fails to adequately describe the extent of park facilities in the area, and while it mentions trails, it does not mention the habitat and special-status species contained therein. The MND describes the environmental setting of the project as industrial and fails to acknowledge the important public uses and sensitive wildlife habitats that occur adjacent to or in the project area that would be impacted by this project.
2. Section IV Biological Resources fails to mention potential project impacts to Peregrine falcon and burrowing owl. The MND notes that surveys were done in February and March of 2001. These would have been too early for determining the presence of migratory burrowing owls. This is also way too early for most of the rare plants, even though they have identified for later survey. These surveys would likely be conducted after the City has approved the project, in which case the City should adopt mitigation measures now, so that if these plants are found after project approval, the adopted mitigation measures can be implemented. This is a potentially significant impact not addressed in the MND.
3. The City needs to employ a qualified biological monitor to protect special-status species during construction. A project foreman is neither trained nor qualified to do this work.

4. Section VII Hazards fails to identify that park users (staff and visitors) may be subject to health and safety risks from exposure to the relocated towers. The towers might be proposed adjacent to areas with frequent park users. Park users of all ages, including those with pace makers or other sensitive health conditions, might be exposed to harmful levels of radio frequencies. The potential level of exposure is unknown since the MND does not identify the magnitude of the facility and its proximity to the park.
5. Section IX Land Use Planning (b) fails to note that this project may conflict with park uses and the response to (c) is not relevant to the question. (See comments below.)
6. Section XIV Recreation and Section I Aesthetics fails to identify aesthetic, operational and access impacts to Hayward Shoreline. The MND fails to include a map of existing and proposed facilities and adjacent land uses, including Hayward Regional Shoreline. There are no illustrations showing the existing or proposed towers. There are no visual simulations to demonstrate that relocation would not result in significant visual impacts. There is no description of how the facilities would be accessed nor how it would affect existing public access and park management.
7. Section XVI Utilities and Service Systems fails to acknowledge the impact relocating the tower will have on communications in the park, specifically the use of telephones, radios, and other electronic equipment and devices. Relocation of the KFOX towers (and later construction of the Russell City Energy Center) may impair communications, including police, fire, and other emergency and safety responses, at the park. This may be a significant, unmitigatable impact.

MND is Inadequate and an Environmental Impact Report Should be Prepared

The City's MND has substantial deficiencies as described above. There are several potentially significant impacts to Hayward Regional Shoreline that are not addressed in the MND. The project also represents a segmentation of the larger Russell City Energy Center. The KFOX Tower Relocation should be addressed in the context of the larger Russell City Energy Center Project (which is requiring that the towers be relocated). We request that the City withdraw its proposed Mitigated Negative Declaration and instead prepare an Environmental Impact Report that addresses the KFOX Tower Relocation and the Russell City Energy Center in a single document.

Should you wish to discuss our letter, please call me at (510) 544-2622 or Larry Tong at (510) 544-2621.

Sincerely,



Brad Olson
Environmental Specialist

cc. Jesus Armas, City Manager
Board of Directors
P. O'Brien, General Manager
R. E. Doyle, Assistant General Manager
L. Tong, Interagency Planning Manager
M. Taylor, Park Supervisor

DRAFT

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7/6/01

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION APPROVING USE PERMIT APPLICATION
NO. 01-160-11 OF GOLDEN GATE BROADCASTING
COMPANY, INC.**

WHEREAS, Use Permit Application No. 01-160-11 concerns a request of Golden Gate Broadcasting Company, Inc., to relocate its radio transmitter facilities from 3636 Enterprise Avenue to a City-owned property near the terminus of West Winton Avenue on a closed landfill site classified as partially Industrial and partially Open Space by the General Plan Map; and

WHEREAS, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and conditionally approve Use Permit Application No. 01-160-11 at its meeting on June 28, 2001, and the matter has been referred to the City Council as required by law; and

WHEREAS, the City Council hereby finds and determines that:

1. Approval of Use Permit Application No 01-1160-11, as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the Mitigated Negative Declaration prepared for this project is in conformance with the provisions of the California Environmental Quality Act.
2. The relocation of the four KFAX radio towers is desirable for the public convenience and welfare because it provides a convenient and necessary service to the City's residents.
3. The relocation of the radio towers will not impair the character and integrity of the Industrial District because the subject towers are already in existence in the District, and similar structures, including PG&E towers, are located in the District. There will be no change to the District by their relocation, they are in character with the surrounding uses and will not be a detriment to surrounding properties.
4. The relocation of the radio towers will not impair the character and integrity of the Flood Plain District because the siting of the towers will not result in exposing persons or properties to tidal or flood water inundation and similar

structures, such as PG&E transmission towers, are found in the district. Also, the Flood Plain District allows broadcasting as a permitted use.

5. The relocation of the radio towers will not be detrimental to the public health, safety, or general welfare in that mitigation measures will be imposed to ensure that the project will not have a significant impact on the environment. In addition, the base of the towers will be fenced to eliminate public access to the towers. Measurements made by the FCC, the EPA, and others have demonstrated that radio frequency energy levels in inhabited areas near broadcasting towers are generally well below maximum permissible exposure.
6. The relocation of the radio towers is in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with the Industrial and Flood Plain Districts and the neighboring open space and industrial activities. in that

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that based on the foregoing findings, Use Permit Application No. 01-160-11 is hereby approved subject to the attached conditions.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Due to the length of the additional exhibits, they are not available for website viewing. The report, in its entirety, is available in the City Clerk's Office, Planning Division, and at the Main Library.